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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

‘ILIO‘ULAOKALANI COALITION, a ) Civil No. 04-00502 DAE BMK  
Hawai'i nonprofit corporation; NĀ ‘IMI )  
PONO, a Hawai'i unincorporated ) PLAINTIFFS' NOTICE OF MOTION  
association; and KĀPUKA, a Hawai'i ) AND MOTION TO FILE SECOND  
unincorporated association, ) AMENDED COMPLAINT AND TO  
 ) JOIN NECESSARY PARTIES;  
Plaintiffs, ) ) MEMORANDUM IN SUPPORT OF  
v. ) ) MOTION; EXHIBIT "A;"  
 ) ) CERTIFICATE OF SERVICE  
 )  
DONALD H. RUMSFELD, Secretary of ) Hearing:  
Defense; and FRANCIS J. HARVEY, )  
Secretary of the United States ) Date: \_\_\_\_\_, 2006  
Department of the Army, ) Time: \_\_\_\_\_.m.  
 ) Judge: Hon. \_\_\_\_\_  
Defendants. )  
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PLAINTIFFS' NOTICE OF MOTION AND  
MOTION TO FILE SECOND AMENDED  
COMPLAINT AND TO JOIN NECESSARY PARTIES

PLEASE TAKE NOTICE that plaintiffs ‘Ilio‘ulaokalani Coalition, Nā ‘Imi Pono, and Kīpuka’s (collectively, “the Hawaiian Groups”) Motion to File Second Amended Complaint and to Join Necessary Parties shall come on for hearing before \_\_\_\_\_, on \_\_\_\_\_, at \_\_\_\_\_, or as soon thereafter as counsel can be heard, in his Courtroom in the United States Courthouse, Prince Jonah Kūhiō Kalaniana‘ole Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawai‘i.

In this motion, the Hawaiian Groups seek leave to amend their complaint to join C.R. Churchill, D.A. Heenan, Richard W. Gushman II, and Ronald J. Zlatroper, the duly appointed, qualified and acting trustees under the Will and of the Estate of James Campbell; John Ray, Timothy E. Johns, and Warren Haruki, the duly appointed, qualified and acting trustees of the Parker Ranch Foundation Trust; the Parker Land Trust; and Parker Ranch, Inc. (collectively, “the Landowners”) as necessary parties in this action with respect to issues of injunctive relief. Such joinder is required by Federal Rule of Civil Procedure 19(a) and Ninth Circuit precedent because relief the Hawaiian Groups intend to seek in proceedings before this Court – i.e., setting aside the land transactions between the Landowners and defendants Donald H. Rumsfeld, Secretary of Defense, and Francis J. Harvey, Secretary of the United States Department of the Army, (collectively, “the Army”) based on the Army’s National Environmental Policy Act violations – may “impair or impede the [Landowners’] ability to protect their interest[s]” and because, in the

Landowners' absence, "complete relief cannot be accorded among those already parties." Fed. R. Civ. P. 19(a); see also Kettle Range Conservation Group v. United States Bureau of Land Mgm't, 150 F.3d 1083, 1086 (9<sup>th</sup> Cir. 1998). Granting leave to file the Second Amended Complaint to join the Landowners as defendants is consistent with Federal Rule of Civil Procedure 15(a)'s mandate that leave to amend pleadings "shall be freely given" to permit the Court to consider the Hawaiian Groups' request for relief. A copy of the proposed Second Amended Complaint is attached as Exhibit "A."

This motion is based on Federal Rules of Civil Procedure 7, 19, and 15, the attached memorandum, the pleadings, record, and files herein, and such other matters as may be presented to the Court.

DATED: Honolulu, Hawai'i, November 7, 2006.

EARTHJUSTICE  
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By: /s/ David L. Henkin  
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